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Attorney File Ref: 102790-185 / 30057 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: **Markus GAUTSCHI**
Serial No.: **10/518730**
Filed: **20 December 2004**
Examiner: **Neil LEVY**
Art Group: **1615**
Title: **INSECT REPELLENTS**

PER TELEFAX: (571) 273-8300

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313 – 1450

18 July 2008

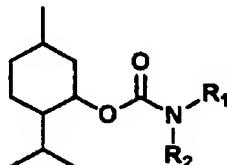
RESPONSE TO RESTRICTION REQUIREMENT

This paper is responsive to the *Restriction Requirement* dated 07.Jul.2008.

The present applicants TRAVERSE the Examiners's "multi-way" restriction requirement, and assert that the Examiner's division of the claims is unnecessary and overly restrictive.

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First, with regard to the species of formula 1, the applicant asserts that the metes-and-bounds of claim 1 are well defined and that the applicant's "core compound" as



represented by the structure:

in conjunction with the reasonably limited designation for the groups R₁ and R₂ are sufficiently proximately related so as to be sufficiently searchable in a single search, and would not impose an undue burden on the Examiner. As such, this requirement should be withdrawn.

With regard to the Examiner's second requirement to elect an ultimate species of insect, again the applicant points out that none of the claims as presented differentiate against specific species of insects and thus the Examiner's requirement is believed to be improper. The applicant further points out that any search of the above compound would be sufficient as the application's claims are all dependent from the above compound or are related thereto such that a single search based on claim 1 as presented in the application would necessarily be coextensive with any search for all species of insects. Such would also not impose an undue burden on the Examiner. In view of the above, this requirement should be withdrawn.

With respect to the Examiner's third requirement to elect an additional repellent, again, the applicant points out that none of the claims as presented differentiate specific additional repellent compounds (viz., see claim 5) thus the Examiner's requirement is believed to be improper. The applicant further points out that any search of the above compound as defined in claim 1 would be sufficient as the application's claims are all dependent from the above compound or are related thereto such that a single search based on claim 1 as presented in the application would necessarily be coextensive with any

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search for all additional repellent compounds. Such would also not impose an undue burden on the Examiner. As such, the Examiner's requirement is should be withdrawn.

With respect to the Examiner's fourth requirement to elect an ultimate species of insecticide, again, the applicant points out that none of the claims as presented differentiate specific insecticidal compounds (viz., see claim 6) thus the Examiner's requirement is believed to be improper. Indeed, a review of the applicant's specification indicates that no individual types of "specific insecticidal compounds" are recited, but only the generic term "insecticidal compounds" are recited. The attention of the Examiner is directed to the follow passage in applicants (now published) specification:

[0020] A compound of the present invention or mixtures thereof may also be used in conjunction with at least one insecticide in order to repel insects from one area and toward the location, where the insecticide is applied to avoid the action of the insecticide in a special area, for example in areas containing foodstuffs. Alternatively, they may be formulated with insecticides so that after the repellent activity has diminished the treated area will still not be safe for insects.

The applicant further points out that any search of the above compound from claim 1 would be sufficient as the application's claims are all dependent from the above compound or are related thereto such that a single search based on claim 1 as presented in the application would necessarily be coextensive with any search "insecticidal compounds." In view of the foregoing, there is no basis in the specification to identify any individual or separate "insecticidal compounds", and the Examiner's requirement should be withdrawn as being improperly lodged.

Nonetheless, if the Examiner does not withdraw one or more parts of the outstanding *Restriction Requirement*, the applicant provisionally elects the subject matter of the following with TRAVERSE:

- 1) ultimate species of formula of claim 1: phenyl-carbamic acid (-)-menthyl ester
- 2) ultimate species of insect: German cockroach

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- 3) ultimate species of additional repellent: N,N-diethyl-m-toluamide (DEET)
- 4) ultimate species of insecticide: none (as noted above, no basis exists)

The applicant expressly reserves their right to reinstate any non-elected subject matter indicated this paper in a later filed application.

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;

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18 July 2008

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CERTIFICATION OF TELEFAX TRANSMISSION:

I hereby certify that this paper and any indicated enclosures thereto is being telefax transmitted to the US Patent and Trademark Office to telefax number: 571-273-8300 on the date shown below:

Allyson Ross

18 July 2008

Date